

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Attorney Docket No. 034536-0390  
(formerly 038602-0402)



Re patent application of

Peng Cho TANG *et al.*

Serial No.: 09/191,199

Group Art Unit: 1624

Filed: November 12, 1998

Examiner: B. Coleman

For: AZAINDOLE TYROSINE KINASE INHIBITORS (as amended)

**PRELIMINARY REMARKS**

**Mail Stop RCE**

Commissioner for Patents

P.O. Box 1450

Alexandria, Virginia 22313-1450

Sir:

Prior to examination of the present RCE Application and in response to a final Office Action dated October 27, 2003, applicants submit the following.

**Remarks** begin on page 2 of this document.

**REMARKS**

In response to the Office Action dated October 27, 2003, applicants have attached hereto a terminal disclaimer to render moot the obviousness-type double patenting rejection over copending Application No. 09/948,106. The filing of the attached terminal disclaimer does not constitute an acquiescence to the merits of the outstanding rejections and has been done solely to expedite prosecution.

Applicants wish to thank Examiner Coleman for discussing the Rule 105 request with applicants' undersigned representative, Matthew Mulkeen. In light of that conversation, applicants' undersigned representative understands that the request under Rule 105 is for copending applications related to Group I of the restriction requirement dated November 24, 1999. That is, compounds of claimed Formula I wherein one of D, E, F and G is nitrogen. Also as discussed with Examiner Coleman, the Rule 105 request does not relate to compounds of Formula I (or a similar type core) wherein all of D, E, F and G are, or two or more of D, E, F and G are, nitrogen.

In light of this conversation, applicants' representative has reviewed copending applications by at least one common inventor. As a result of this review, applicants attach hereto in an IDS a current copy of the following copending applications: Application Nos. 10/460,641, 10/371,157, 10/383,690 (with preliminary amendment), 10/622,787, and 10/458,730.

Applicants' review of copending applications has not included any provisional applications because provisional applications do not include claims and could not form the basis of a double patenting rejection.

In view of this response, applicants submit that all of the obviousness-type double patenting rejections are moot and that this application is in condition for allowance. Early notice to that effect is earnestly solicited. The Examiner is invited to telephone the undersigned at the number listed below if the Examiner believes this would be helpful in advancing the application to issue.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or

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even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

Date January 27, 2004

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